

REFERENCE TITLE: **flood control districts; financing**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2361

Introduced by
Representative Konopnicki

AN ACT

AMENDING SECTION 48-3603, ARIZONA REVISED STATUTES; RELATING TO COUNTY FLOOD CONTROL DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 48-3603, Arizona Revised Statutes, is amended to
3 read:

4 48-3603. Powers, duties and immunities of district and board;
5 exemptions

6 A. A county flood control district organized under this article is a
7 political taxing subdivision of this state and has all the powers, privileges
8 and immunities granted generally to municipal corporations by the
9 constitution and laws of this state including immunity of its property and
10 bonds from taxation.

11 B. The board of directors shall exercise all powers and duties in the
12 acquisition and operation of the properties of the district and in carrying
13 out its regulatory functions under this article as are ordinarily exercised
14 by the governing body of a municipal corporation.

15 C. A district organized under this article, acting through its board
16 of directors, may:

17 1. Acquire by eminent domain, purchase, donation, dedication, exchange
18 or other lawful means rights-of-way for and construct, operate and maintain
19 flood control works and storm drainage facilities within or without the
20 district for the benefit of the district.

21 2. Acquire **REAL OR PERSONAL PROPERTY IN THE DISTRICT** by eminent
22 domain, purchase, **LEASE-PURCHASE, LEASE AND LEASE-BACK**, donation, dedication,
23 exchange or other lawful means, **MAY GRANT A MORTGAGE OR LIEN ON ITS PROPERTY,**
MAY LEASE REAL OR PERSONAL PROPERTY IN THE DISTRICT, EITHER AS LESSEE OR
LESSOR and **MAY** dispose of by sale, exchange, **LEASE** or other lawful means real
26 and personal property within the boundaries of the district. **ANY**
LEASE-PURCHASE AGREEMENT OR ANY LEASE-BACK AGREEMENT ENTERED INTO BY A
DISTRICT IS BINDING ON ALL FUTURE BOARDS OF DIRECTORS UNTIL FULLY PERFORMED.

27 3. Contract and join with this state, the United States or any other
28 flood control district or floodplain board, municipality, political
29 subdivision, governmental agency, irrigation or agricultural improvement
30 district, association, corporation or individual in acquiring, constructing,
31 maintaining and operating flood control works, and regulating floodplains.

32 4. Enter into contracts of indemnity to indemnify this state, the
33 United States or any other flood control district, municipality, political
34 subdivision, governmental agency, irrigation or agricultural improvement
35 district, association, corporation, **LESSOR UNDER A LEASE-PURCHASE AGREEMENT,**
SUBLESSOR UNDER A LEASE AND LEASE-BACK ARRANGEMENT or individual against
36 liability by virtue of injuries, losses or damages occurring through the use
37 of their facilities, structures, streets, rights-of-way or properties in
38 connection with the operation of a flood control district and the regulation
39 of floodplains.

40 5. Acquire and maintain existing flood control and drainage facilities
41 within the district for the benefit of the district if mutually agreeable to
42 the owners of such facilities.

1 6. Acquire, convert and maintain surplus irrigation facilities as
2 storm drainage facilities if mutually agreeable to owners of such facilities.

3 7. Construct, maintain and operate flood control and storm drainage
4 facilities and regulate floodplains in the district by agreement with this
5 state, counties, other municipal corporations, political subdivisions and
6 other persons and reimburse such agencies or persons for the cost of the
7 work.

8 8. On the dissolution of any other flood control district, assume the
9 assets and obligations of the other district.

10 9. Enter into intergovernmental agreements with other public agencies
11 pursuant to title 11, chapter 7, article 3 to carry out the objects and
12 purposes of the district.

13 10. Apply for, obtain, expend and repay flood control loans pursuant to
14 title 45, chapter 8, article 5.

15 11. Apply to the director of water resources for alternative flood
16 control assistance for flood control projects pursuant to section 45-1471,
17 except that the director shall not grant any such assistance for any project
18 unless the director has approved the project in advance of planning.

19 12. Sue and be sued, enter into contracts and generally do all things
20 which may be necessary to construct, acquire and maintain facilities, operate
21 the district and perform its regulatory functions and which are in the
22 interests of the district.

23 13. Adopt such rules and bylaws for its orderly operation as it sees
24 fit.

25 14. Appoint a chief engineer and general manager, who may be the county
26 engineer.

27 15. Appoint a treasurer, who may be the county treasurer, an attorney,
28 who may be the county attorney, and other employees it considers desirable
29 and necessary to carry out the purposes of the district. Any other work
30 required by the district may be performed by regular employees of the county
31 on assignment by the board of supervisors, except that regular county
32 employees shall not undertake construction projects with an estimated cost of
33 five thousand dollars or more.

34 16. Allow variances from the terms or regulations adopted pursuant to
35 this article to the extent permitted by section 48-3609, subsection B,
36 paragraph 7 and if, owing to peculiar conditions, a strict interpretation
37 would work an unnecessary hardship, if in granting the variance the general
38 intent and purposes of this article and the regulations will be preserved.

39 17. Construct, operate and maintain artificial groundwater recharge
40 facilities, and, if organized in a county having a population of more than
41 five hundred thousand persons according to the most recent United States
42 decennial census, underground storage and recovery facilities, if they have
43 flood control benefits, and contract and join with the United States, this
44 state and other governmental units for the purpose of constructing, operating
45 and maintaining multipurpose groundwater recharge, underground storage and

1 recovery and flood control facilities, except that a district shall not
2 expend district funds for any underground storage and recovery facility that
3 does not have flood control benefits.

4 18. Acquire real property by purchase, donation, dedication, exchange
5 or other lawful means, except by eminent domain, in areas suitable for
6 groundwater recharge projects.

7 19. Cooperate and join with other entities that engage in underground
8 water storage and recovery projects under title 45, chapter 3, including
9 multi-county water conservation districts and other political subdivisions.

10 20. Either alone, or by entering into any combination of contracts with
11 this state, the United States, any other flood control district, a floodplain
12 board, a municipality or other political subdivision, a government agency, an
13 irrigation or agricultural improvement district or an association,
14 corporation or individual, implement flood control enhancement solutions
15 including:

16 (a) Assistance for property owners within the floodplain and through
17 the elevation, bank stabilization and flood proofing of existing structures.

18 (b) Preservation and restoration of the floodplain.

19 (c) Maintenance of flood warning systems and associated flood response
20 plans.

21 D. The board shall adopt and enforce floodplain regulations as
22 provided in section 48-3609.

23 E. The board may adopt a fee schedule for review of applications for
24 permits and variances from or interpretations of the floodplain regulations.

25 F. The affirmative vote of a majority of the board of directors is
26 necessary to approve any measure. One member may adjourn any meeting at
27 which a quorum is not present.

28 G. The board shall keep a proper written record of all of its
29 proceedings, which shall be open to public inspection.

30 H. The accounts of the district are subject to annual and other audits
31 as provided by law.

32 I. Section 9-403 does not apply to a flood control district organized
33 under this article and section 9-402 does not apply when the district is
34 selling property to a political subdivision. If any property sold by the
35 district to a political subdivision without complying with section 9-402 is
36 subsequently sold by the political subdivision as undeveloped property for a
37 price exceeding the original sale price, the district shall be paid the
38 difference between the original price and the subsequent sale price. For the
39 purposes of this subsection, "political subdivision" means any incorporated
40 city or town, school district, charter school, community college or
41 university.